

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7326

DYSHUM MICHAEL JONES,

Petitioner - Appellant,

versus

GARY MAYNARD; CHARLES M. CONDON, Attorney
General of the State of South Carolina,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Charleston. G. Ross Anderson, Jr., District
Judge. (CA-02-2321)

Submitted: November 7, 2002

Decided: November 15, 2002

Before WILKINS and LUTTIG, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Dyshum Michael Jones, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Dyshum Michael Jones, a state prisoner, seeks to appeal the district court's order adopting the magistrate judge's report and recommendation, and denying relief on his petition filed under 28 U.S.C. § 2254 (2000). An appeal may not be taken to this court from the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a state court unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). When, as here, a district court dismisses a § 2254 petition solely on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right' and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F. 3d 676, 684 (4th Cir. 2001) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)). We have reviewed the record and conclude for the reasons stated by the district court that Jones has not made the requisite showing. See Jones v. Maynard, No. CA-02-2321 (D.S.C. filed Sept. 19, 2002; entered Sept. 20, 2002). Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately

presented in the materials before the court and argument would not aid the decisional process.

DISMISSED